Public Health Appeal Board

Annual Report 2005

Alberta
Health and Wellness

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ALBERTA
HEALTH AND WELLNESS

Office of the Minister

April 2006

The Honourable Ken Kowalski, M.L.A.
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

I have the honour to present the annual report of the Public Health Appeal Board for the year January 01, 2005 to December 31, 2005.

Sincerely yours,

Iris Evans

Iris Evans
Minister

Legislature Building, Edmonton, Alberta, Canada T5K 2B6 Telephone 780/427-3665 Fax 780/415-0961

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Alberta
HEALTH AND WELLNESS
PUBLIC HEALTH APPEAL BOARD

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April 2006

The Honourable Iris Evans
Minister of Health and Wellness
107 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Minister Evans:

I have the honour and privilege to present the annual report of the Public Health Appeal Board for the year January 01, 2005 to December 31, 2005.

Respectfully submitted,

William J. Love, Chairman
Public Health Appeal Board

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Public Health Appeal Board Members

William Love - Calgary
Chair
Mr. Love is an independent insurance broker and consultant. He is a past chair of the Board of Examiners for Certified Dental Mechanics (1993 – 2002). He volunteers for church and community organizations.

Sharon Cox - High Prairie
Alternate Vice-chair
Ms. Cox runs a mixed farming operation with her children and is a former registered nursing assistant. She is a past chairperson for the Keeweetinok Lakes Regional Health Authority (1994 – 2001). She enjoys volunteering for various community groups.

Marvie Kenny - Oyen
Member
Ms. Kenny is a retired dental hygienist and partner in a grain farming operation. She also volunteers for various community organizations. Ms. Kenny's term of office expired April 2005.

William (Bill) Steinburg - Spruce Grove
Member
Mr. Steinburg is currently an alderman of the city of Spruce Grove. He holds a degree of Bachelor of Health Services Administration and is a medical radiation technologist. Bill is a health care consultant and has a background in finance administration and capital projects.

Margaret Niehaus - Edmonton
Administrative Assistant/Coordinator

Background

The Public Health Appeal Board (The Board) was established February 03, 1999 under the amended *Alberta Public Health Act*. The new Public Health Appeal Board replaced the former Public Health Advisory and Appeal Board established in 1985.

The board is subject to general rules of administrative law and natural justice as they apply to quasi-judicial tribunals. Donald R. Cranston, Q.C., of the law firm Bennett Jones LLP provides the board with independent legal counsel.

Duties

The Public Health Appeal Board is a panel of not more than five members appointed by the Lieutenant Governor in Council. The mandate of the Public Health Appeal Board is to hear appeals from individuals who have been directly affected by a decision of a regional health authority (RHA). Those decisions are related primarily to orders made pursuant to section 62 of the *Public Health Act*.

The board may call upon technical experts and professionals to assist and provide them with specific knowledge in areas related to the appeal. At the completion of the appeal, the board gives written notice of their decision. This may:

- confirm, reverse or vary the decision of the RHA or
- refer the matter back to the RHA for further consideration.

PUBLIC HEALTH APPEAL BOARD
2005 APPEAL APPLICATIONS – HEARING – DISPOSITIONS

Regional Health Authority	Appeal Applications	Date of Appeal mm/dd/yyyy	Appeal Withdrawn	Decision	Comments
Chinook Regional Health Authority	Nil	n/a	n/a	n/a	n/a
Palliser Health Region	Nil	n/a	n/a	n/a	n/a
Calgary Health Region	01/2005	01/21/2005	Withdrawn		
	14/2005	08/03/2005		File closed	Appellants vacated premises
David Thompson Regional Health Authority	06/2005	06/02/2005		File closed	Cannot file appeal of a rescinded order
East Central Health	Nil	n/a	n/a	n/a	n/a
Capital Health	17/2004	12/02/2004	Withdrawn		
	02/2005	02/11/2005		Reverse	Regarding obligation to reinstate power
	03/2005	02/24/2005		Varied	Time for compliance to order extended
	04/2005	03/24/2005		Upheld	
	05/2005	05/27/2005		Upheld	
	07/2005	06/15/2005	Withdrawn		
	08/2005	06/20/2005		Upheld	
	09/2005	06/30/2005		Upheld	
	10/2005	07/06/2005	Withdrawn		
	11/2005	07/07/2005		Upheld	
	12/2005	07/11/2005		Return	Return for re-determination
	13/2005	07/06/2005		File closed	Order was dated August 2002
	15/2005	08/12/2005		Upheld	
	16/2005	08/18/2005		Return	Return for re-determination
	17/2005	09/06/2005		Reverse	Replacement of drywall
	18/2005	09/09/2005		Varied	Regards to cleaning premises
	19/2005	09/23/2005		Varied	Appellant's name removed from the order
	20/2005	10/18/2005		Upheld	
	22/2005	11/21/2005		Upheld	
Aspen Regional Health Authority	Nil	n/a	n/a	n/a	n/a
Peace Country Health					
Northern Lights Health Region	21/2005	10/07/2005		Upheld	

Appeal Activities and Summaries

The following is a summary of all appeals or applications received and/or heard by the Public Health Appeal Board from January 01, 2005 to December 31, 2005:

17/2004 (received 2004, disposition 2005)
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, requiring the owner to ensure guard rails for all balconies are maintained in good repair and safe condition.

The appellants withdrew the appeal as the appeal was pending the decision of a previous appeal heard by the Public Health Appeal Board.

01/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, requiring the owner to repair a number of conditions immediately.

The appellant withdrew the appeal.

02/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, requiring the owner to repair a number of conditions within different timelines and to provide electrical power to occupied suites and common areas.

Hearing held March 9, 2005
The board reversed the order issued by the executive officer of Capital Health with respect to the obligation to reinstate electrical power to the premises.

03/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, requiring the owner to correct plumbing, electrical and various housing conditions of the premises.

Hearing held March 31, 2005
The board varied the order issued by the executive officer of Capital Health. The appellant was granted an extension of time to correct the conditions as identified in the order.

04/2005
Orders issued by Executive Officer of Capital Health

Appeal of two orders of an executive officer of Capital Health under Section 62 of the *Public Health Act*, declaring the housing premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held April 19, 2005
The board upheld the orders issued by the executive officer of Capital Health. The appellant acknowledged the state of the premises and is to correct the conditions identified in the order to the satisfaction of an executive officer of Capital Health.

05/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, requiring the owner to correct plumbing and sewage conditions of the premises.

Hearing held July 14, 2005
The board upheld the order issued by the executive officer of Capital Health. The premises are to remain vacant until the appellant corrects the conditions identified in the order to the satisfaction of an executive officer of Capital Health.

06/2005
Order issued by Executive Officer of David Thompson Health Region

Appeal of the rescinded order of an executive officer of David Thompson Health Region under Section 62 of the *Public Health Act*, requiring the owner to repair a number of conditions by a specified time.

The file is closed as an appeal cannot be acknowledged from a rescinded order.

07/2005
Orders issued by Executive Officer of Capital Health

Appeal of two orders of an executive officer of Capital Health under Section 62 of the *Public Health Act* and under the Food and Food Establishments Regulation, requiring the owner to allow the executive officer to inspect the premises for compliance with provincial statutes and/or Health Standards and to obtain license/permit to operate a semi-public swimming pool.

The appellant withdrew the appeal.

08/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, declaring the housing premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held July 13, 2005
The board upheld the order issued by the executive officer of Capital Health. The premises are to remain vacant until the appellant corrects the conditions identified in the order to the satisfaction of an executive officer of Capital Health, including the provision of a professional engineering report regarding the foundation of the premises.

09/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act,* declaring the housing premises unfit for human habitation and requiring the owner to retain a professional engineer regarding the structural condition of the premises and to ensure the premises complies with all sections of the Minimum Housing and Health Standards.

Hearing held July 19, 2005
The board upheld the order issued by the executive officer of Capital Health. The premises are to remain vacant until the appellant corrects the conditions identified in the order to the satisfaction of an executive officer of Capital Health, including the provision of a professional engineering report regarding the foundation of the premises.

10/2005
Orders issued by Executive Officer of Capital Health

Appeal of two orders of an executive officer of Capital Health under Section 62 of the *Public Health Act,* declaring the housing premises unfit for human habitation and requiring the occupants to vacate the premises.

The appellant withdrew the appeal.

11/2005
Orders issued by Executive Officer of Capital Health

Appeal of two orders of an executive officer of Capital Health under Section 62 of the *Public Health Act,* declaring the housing premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held July 14, 2005
The board upheld the order issued by the executive officer of Capital Health with respect to the Order to Vacate the premises. The Unfit for Human Habitation order was not challenged.

12/2005
Orders issued by Executive Officer of Capital Health

Appeal of two orders of an executive officer of Capital Health under Section 62 of the *Public Health Act*, declaring the housing premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held July 27, 2005
The Board sent the executive officer's orders back to the Capital Health Authority for further consideration and re-determination.

13/2005
Order issued by Executive Officer of Capital Health

Appeal of eviction notice. A review of our files indicates an executive officer issued an Order not permitting occupancy of the premises until authorized to do so by an executive officer of Capital Health.

The file is closed as the application for the appeal was not filed within the prescribed time requirements.

14/2005
Order issued by Executive Officer of Calgary Health Region

Appeal of the order of an executive officer of Calgary Health Region under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the occupants to vacate the premises.

The file is closed as the appellants vacated the premises.

15/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, requiring the owner to supply hot water and electricity and for the electric stove to be maintained in safe and proper operating condition.

Hearing held September 15, 2005 concurrent with Appeal 16/2005
The board upheld the order issued by the executive officer of Capital Health.

16/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held September 15, 2005 concurrent with Appeal 15/2005
The board returned the order to Capital Health for further consideration and re-determination regarding further testing of the water.

17/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, requiring the owner to conduct plumbing repairs and to repair water damaged areas in the hallway ceiling.

Hearing held September 14, 2005
The board reversed the order issued by the executive officer of Capital Health. The appellant is to replace a portion of the ceiling drywall. The other conditions of the order remain in effect.

18/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, requiring the owner to repair a number of conditions by a specified date.

Hearing held September 16, 2005
The board varied the order issued by the executive officer of Capital Health. The appellant is to have the premises cleaned by a person or company well informed of the proper procedure for handling potentially infectious materials.

19/2005
Orders issued by Executive Officer of Capital Health

Appeal of two orders of an executive officer of Capital Health under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held October 20, 2005
The board upheld the Order to Vacate issued by the executive officer of Capital Health and varied the Unfit for Human Habitation Order by removing the appellant's name from the order.

20/2005
Order issued by Executive Officer of Capital Health

Appeal of the order of an executive officer of Capital Health under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held November 2, 2005
The board upheld the order issued by the executive officer of Capital Health.

21/2005
Orders issued by Executive Officer of Northern Lights Health Region

Appeal of two orders of an executive officer of Northern Lights Health Region under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held October 25, 2005
The board upheld the orders issued by the executive officer of Northern Lights Health Region.

22/2005
Orders issued by Executive Officer of Capital Health

Appeal of the orders of an executive officer of Capital Health under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the occupants to vacate the premises.

Hearing held December 7, 2005
The board upheld the Unfit for Human Habitation Order issued by the executive officer of Capital Health. The appellant did not appeal the Order to Vacate as the tenants had vacated the premises.

Other Activities

Board members attended educational courses provided through **The Foundation of Administrative Justice**. These courses provide a valuable overview of essential practices and components of conducting administrative hearings. Attending courses of this nature enhance our ability to render fair and credible decisions.